



U.S. Department of Education
Office of Inspector General

University of North Georgia's Controls Over Reporting Clergy Act Crime Statistics

September 11, 2020
ED-OIG/A09T0006

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**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL**

Audit Services

September 11, 2020

Dr. Bonita C. Jacobs
President
University of North Georgia
82 College Circle
Dahlonega, GA 30597

Dear President Jacobs:

Enclosed is our final audit report, "University of North Georgia's Controls Over Reporting Clery Act Crime Statistics," Control Number ED-OIG/A09T0006. This report incorporates the comments you provided in response to the draft report. If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Department of Education official, who will consider them before taking final Departmental action on this audit:

Mark Brown
Chief Operating Officer
Federal Student Aid
U.S. Department of Education
830 First Street NE
Washington, D.C. 20002

The U.S. Department of Education's policy is to expedite audit resolution by timely acting on findings and recommendations. Therefore, if you have additional comments, we would appreciate receiving them within 30 days.

Sincerely,

/s/

Alyce Frazier
Regional Inspector General for Audit

Enclosure

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Results in Brief

What We Did

The objective of our audit was to determine whether the University of North Georgia (North Georgia) had controls to ensure that it reported complete and accurate campus crime statistics under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

We evaluated North Georgia's processes (policies, procedures, and activities) for collecting, analyzing, and reporting Clery Act crime statistics for the U.S. Department of Education's (Department) 2018 Campus Safety and Security Survey (Department crime survey), which presented crime statistics for calendar years 2015–2017. The 2018 Department crime survey data was the most current data available at the time that we initiated the audit. We refer to the campus crime statistics reported in the annual Department crime survey as the "Clery Act crime statistics" in this report. We used the Department's "Handbook for Campus Safety and Security Reporting," 2016 edition, (Clery Act Handbook) and standards of effective internal control¹ to identify and assess the design, implementation, and operating effectiveness of North Georgia's significant controls over the completeness and accuracy of the Clery Act crime statistics. To assess completeness of the reported crime statistics, we identified groups of crime incidents in North Georgia's records and verified that the incidents had been reported in the Clery Act crime statistics. To assess accuracy, we reviewed the crime reports and other documentation supporting the 44 criminal and unfounded incidents that North Georgia reported for its 2 largest campuses to ensure the statistics were properly classified in accordance with applicable Clery Act reporting requirements.²

Our review focused on North Georgia's reporting of Clery Act crime statistics related to criminal offenses, hate crimes, and Violence Against Women Act crimes. We did not

¹ We use the term "standards of effective internal control" to refer to the standards included in both the Committee of Sponsoring Organizations of the Treadway Commission's "Internal Control—Integrated Framework," May 2013, and the U.S. Government Accountability Office's "Standards for Internal Control in the Federal Government," September 2014.

² The "Records Selection and Testing Methodology" section of this report describes how we selected crime incidents for review and the scope of our testing. We limited our review to crime incidents that were reported at North Georgia's 2 largest campuses because nearly 90 percent of North Georgia's reported criminal incidents occurred at the 2 campuses.

assess North Georgia's reporting of arrests and disciplinary referrals for violations of weapons, drug abuse, and liquor laws. We also did not assess North Georgia's controls over compliance with Clery Act requirements not directly related to the completeness and accuracy of the crime statistics, including those for emergency response and evacuation, timely warnings, policy statements, missing student notifications, or fire safety.

What We Found

North Georgia did not have effective controls to ensure that it reported complete and accurate Clery Act crime statistics. North Georgia had processes for activities related to crime reporting under the Clery Act, including identifying its Clery Act geography, requesting crime statistics from local law enforcement agencies, identifying campus security authorities (CSAs) and collecting crime reports from CSAs, processing and compiling the crime information, and reporting the annual Clery Act crime statistics by the reporting deadline. However, these processes did not provide reasonable assurance that the reported crime statistics would be complete and accurate. Additionally, North Georgia did not follow all applicable Clery Act requirements and guidance, which, if followed, would help support the completeness and accuracy of the reported crime statistics. For example, North Georgia did not properly identify its CSAs or follow all applicable requirements for identifying its Clery Act geography³ and requesting crime statistics from local law enforcement.

North Georgia's reported Clery Act crime statistics for calendar years 2015–2017 were not complete and accurate. As a result, the statistics did not provide reliable information to current and prospective students, their families, and other members of the campus community for making decisions about personal safety and security. We identified 21 unreported criminal incidents that North Georgia should have reported for its 2 largest campuses but did not. North Georgia reported 36 criminal incidents at the 2 campuses but should have reported at least 56 criminal incidents (36 incidents it reported, less 1 incident that North Georgia reported in error, plus 21 additional incidents that we identified). However, due to weaknesses in North Georgia's internal controls, we could not identify the total number of Clery Act crimes that North Georgia should have reported during the audit period and concluded that the actual reportable number of crimes could be higher than the number we identified. North Georgia also

³ A school's Clery Act geography generally consists of the buildings or property that the school owns or controls and surrounding public property, for which it must collect reports of alleged crimes to be included in its Clery Act crime statistics.

inaccurately reported 6 of the 44 total criminal and unfounded incidents at the 2 campuses, and there were differences between the counts of crimes that North Georgia reported in the Department crime survey and published in its annual security report, which is distributed to students and employees.

North Georgia did not have effective internal controls over significant processes related to the reporting of its Clery Act crime statistics. Specifically, North Georgia did not have effective processes to identify critical information sources for Clery Act reporting; collect, record, and track the information; analyze, report, and document the crime statistics; or provide management oversight and quality assurance over the Clery Act crime reporting process.

North Georgia's internal controls helped ensure that North Georgia reported the Clery Act crime statistics by the annual reporting deadline but did not ensure that the statistics were complete and accurate. North Georgia did not allocate sufficient resources or personnel with the right skillsets to help design and implement the Clery Act crime reporting processes. The entire crime reporting activity was assigned to one staff member as a supplemental responsibility in addition to numerous other campus law enforcement duties. North Georgia did not involve personnel with legal, risk management, audit, internal control, or Federal education compliance experience to design a Clery Act crime reporting process with appropriate controls that would align with applicable internal control standards and meet compliance requirements.

What We Recommend

We recommend that Federal Student Aid's (FSA) Chief Operating Officer require North Georgia to design and implement effective internal controls over the completeness and accuracy of its Clery Act crime statistics. North Georgia should also conduct a comprehensive review of its records for calendar years 2015–2017 to identify all reportable Clery Act crimes and amend its reported crime statistics to correct any errors in the reported statistics. We also recommend that FSA's Chief Operating Officer determine whether FSA should take action against North Georgia for the Clery Act violations identified in this report.

North Georgia Comments

We provided a draft of this report to North Georgia for comment. North Georgia did not agree with the finding or recommendations. However, North Georgia described 18 corrective actions that it had taken in response to the preliminary recommendations

that we provided at the exit conference in November 2019.⁴ North Georgia stated that it was unnecessary for us to issue the finding and recommendations because it had already taken corrective actions.

North Georgia disagreed with OIG's recommendations that FSA require it to take specific actions related to its system of internal controls and said that the recommendations were not supported by statute or regulation. North Georgia also disagreed with OIG's conclusion that it did not follow the standards of effective internal control and said that the Clery Act prohibits the Department from imposing specific internal control standards on schools. North Georgia stated that it would be unfair to impose the standards of effective internal control on it, especially given our recommendation that FSA consider taking action against North Georgia under 34 Code of Federal Regulations (C.F.R.) Part 668 Subpart G, which could include civil penalties, or suspension or termination from participation in the programs of Title IV of the Higher Education Act of 1965, as amended (Title IV). North Georgia stated that the Department had never provided public notice that it would rely on the standards of effective internal control to determine whether schools are complying with the Clery Act. Finally, North Georgia stated that it disagreed with 1 of the 6 accuracy errors and 4 of the 23 unreported criminal incidents that we included in the draft report and provided its basis for disagreement.

We summarize North Georgia's comments at the end of the finding and include the full text of North Georgia's comments at the end of this report. Although North Georgia did not refer to individuals by name when discussing whether certain incidents should be reported, we redacted some information that could be identifying to further protect the privacy interests of the parties discussed.

OIG Response

Although North Georgia did not agree with the finding or recommendations, the 18 corrective actions it described, if properly implemented, are generally responsive to Recommendations 1.1 through 1.4 in this report. Our report reflects North Georgia's Clery Act crime reporting processes during the audit period. We do not include the 18 corrective actions in our report because the processes were not in place during the audit period.

⁴ The recommendations from the exit conference correspond to Recommendations 1.1 through 1.4 in this report.

The requirement to have internal controls is not a new rule. As stated in the “Internal Controls” section of this report, 34 C.F.R. Section 668.16(c)(1) requires schools, such as North Georgia, to have adequate checks and balances in a system of internal control in order to participate in the Title IV programs. The Department does not require schools to follow a specific framework of internal control. We used the standards of effective internal control to evaluate North Georgia’s internal controls because (1) the State of Georgia required North Georgia to follow those standards and (2) North Georgia officials told us that they designed their system of internal controls based on those standards. We did not use the standards of effective internal control to assess North Georgia’s compliance with the Clery Act, but rather to evaluate North Georgia’s internal controls over the reporting of its Clery Act crime statistics. We cite appropriate compliance criteria from 34 C.F.R. Section 668.46 to support each compliance deficiency noted in this report.

Our recommendations are intended to ensure that North Georgia designs and implements effective internal controls for reporting complete and accurate Clery Act crime statistics. We recommend that North Georgia identify the risks to reporting complete and accurate Clery Act crime statistics, including the control weaknesses identified in this report, and design and implement internal controls to mitigate those risks. The standards of effective internal control state that an entity’s internal control is flexible to allow management to tailor control activities to meet the entity’s special needs. North Georgia can design and implement the internal controls that provide reasonable assurance in achieving the objective of reporting complete and accurate Clery Act crime statistics.

We reviewed the information that North Georgia provided related to the one accuracy error and four unreported criminal incidents with which it did not agree. We agreed with North Georgia’s comments for two of the unreported criminal incidents and removed them from the finding. With respect to Recommendation 1.5, 34 C.F.R. Part 668 Subpart G includes various actions that FSA can take against schools, including fines and the limitation, suspension, or termination of a school’s participation in the Title IV programs. We modified Recommendation 1.5 to identify a fine as an action that FSA can consider under Subpart G. However, FSA will ultimately determine what action, if any, is appropriate. The changes to the report did not have a material effect on the finding or recommendations.

Introduction

Background

North Georgia is a public university in the University System of Georgia that offers over 100 programs of study at the associate, bachelor, and graduate degree-levels. As of the spring of 2019, North Georgia had 5 campus locations (Dahlonega, Gainesville, Oconee, Cumming, and Blue Ridge) and online programs which collectively enrolled 18,092 students. About 80 percent of North Georgia's students attended the two largest campuses, Dahlonega and Gainesville.⁵ During the Federal award year from July 1, 2017, through June 30, 2018, North Georgia students received over \$72 million in financial aid under programs authorized by Title IV. The Title IV programs provide financial aid, typically in the form of grants or loans, to eligible students attending eligible schools.

The Clery Act

Campus safety and security is a major consideration for students and their families when deciding which school to attend. Congress enacted the Crime Awareness and Campus Security Act of 1990, which amended the Higher Education Act of 1965 (HEA) and established new requirements for schools related to campus safety. In 1998, the Crime Awareness and Campus Security Act was renamed the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) in memory of a student who was raped and murdered in her dorm room in 1986. The Clery Act requires schools that participate in the Title IV programs to publish and distribute to current and prospective students and employees, an annual security report that describes the school's policies and procedures for campus safety and discloses the school's annual campus crime statistics.⁶ The Clery Act also requires schools to report their Clery Act crime statistics to the Department on an annual basis and requires the Department to make those statistics available to the public. The Department's Office of Postsecondary Education publishes the Clery Act crime statistics on its campus safety and security website, which includes a tool that allows prospective students to compare crime data across schools.

⁵ Prior to 2013, the Dahlonega and Gainesville campuses were separate colleges known as the North Georgia College and State University and Gainesville State College, respectively. In 2013, the two colleges combined to form North Georgia.

⁶ Distance education-only schools where students are never present on a physical campus are exempt from the Clery Act crime reporting requirements.

The Department oversees Clery Act administration and helps to ensure that schools understand and comply with the Clery Act requirements, in part, by providing technical assistance, training, and guidance to those schools. FSA conducts program reviews of schools to evaluate their compliance with the Clery Act, and if necessary, administers enforcement procedures under 34 C.F.R. Part 668 Subpart G that the Secretary has established for taking action against schools that violate the Clery Act. These enforcement actions may include imposing fines or limiting, suspending, or terminating a school's participation in the Title IV programs.

Clery Act Crime Statistics

The Department's regulations for the Clery Act describe how schools should collect and report their crime statistics, including the types of crimes that are reportable, the campus locations covered by the reporting requirements, and the sources of crime information (34 C.F.R. Section 668.46). The Department publishes its interpretations and guidance related to the Clery Act in the Clery Act Handbook, which was produced to assist schools in understanding the Clery Act requirements and is intended for use by the Department and outside reviewers responsible for evaluating a school's compliance with the Clery Act. The Department's regulations and the Clery Act Handbook assist schools in reporting crime statistics that are complete, accurate, consistent, and comparable in order to provide a meaningful resource to students and families.

Under the Clery Act, schools are required to report crime statistics using crime classifications from the Federal Bureau of Investigation's Uniform Crime Reporting program. There are four categories of reportable Clery Act crimes: (1) criminal offenses, (2) hate crimes, (3) Violence Against Women Act (VAWA) crimes, and (4) arrests and disciplinary referrals for violations of weapons, drug abuse, and liquor laws. Our audit focused on incidents in the first three categories (referred to in this report as "criminal incidents") and did not include a review of arrests or disciplinary referrals for violations of weapons, drug abuse, and liquor laws. Table 1 summarizes the reportable Clery Act crime classifications in each of the three categories that we reviewed.

Table 1. Reportable Clery Act Crime Categories and Classifications

Crime Category	Reportable Clery Act Crime Classifications
Criminal Offenses	There are 11 crime classifications for criminal offenses: murder and non-negligent manslaughter, negligent manslaughter, rape, fondling, incest, statutory rape, robbery, aggravated assault, burglary, motor vehicle theft, and arson.
Hate Crimes	Hate crimes are criminal offenses that manifest evidence that the victim was intentionally selected because of the perpetrator's bias against the victim's race, religion, sexual orientation, gender, gender identity, ethnicity, national origin, or disability. Reportable hate crime classifications include all but one of the criminal offenses listed above (negligent manslaughter) as well as larceny-theft, simple assault, intimidation, and destruction of property/vandalism.
VAWA Crimes	VAWA crime classifications include dating violence, domestic violence, and stalking. Sexual assault (which includes rape, fondling, incest, and statutory rape) is also a VAWA crime but is reported within the "criminal offenses" crime category above.

Schools are required to report only those crimes that occurred within the school's "Clery Act geography." A school's Clery Act geography can include up to four categories: (1) on-campus buildings and property, (2) on-campus student housing (reported as a subset of total on-campus crimes), (3) public property that is within or immediately adjacent to and accessible from campus, and (4) non-campus buildings and property that the school owns or controls. Crimes that occur outside of these geographic boundaries are not reportable under the Clery Act even if the school's students or staff are involved. Each school is responsible for identifying and updating its Clery Act geography.

Schools must obtain crime information from various sources to identify and compile the reportable Clery Act crime statistics. Schools obtain crime information from campus authorities known as CSAs, who include campus police department personnel and other authorities who have significant responsibilities for student and campus activities, and from local law enforcement agencies. CSAs play a vital role in the Clery Act crime reporting process by collecting information about Clery Act crimes from members of the campus community and reporting that information to a school official⁷ who has been

⁷ In this report, we refer to this official as the "Clery Coordinator."

designated to receive the crime reports and compile, process, and report the Clery Act crime statistics. The Clery Act Handbook provides guidance to assist schools with identifying which people are CSAs and establishing a CSA reporting process. Schools are required to annually request crime statistics from the local law enforcement agencies that have jurisdiction over their Clery Act geography.

Under the Clery Act, a crime is considered to have been “reported” to the school when it is brought to the attention of a CSA or local law enforcement official. Schools must include all Clery Act crimes that are alleged to have occurred within their Clery Act geography in their annual crime statistics regardless of whether a police report was filed or whether any disciplinary proceedings occurred. A reported crime can only be excluded from the annual Clery Act crime statistics in limited circumstances when it is determined to be “unfounded.” An unfounded crime is an alleged crime that has been fully investigated by a sworn law enforcement officer who made a formal determination that the crime report was false or baseless. The Clery Act Handbook establishes a high threshold for unfounded crimes; the officer must find evidence that the reported crime did not occur, not merely an absence of evidence that it did occur. Schools must report the number of unfounded crimes in their Clery Act crime statistics. North Georgia’s reported Clery Act crime statistics for 2015–2017 are shown in Appendix B to this report.

Internal Controls

To be eligible to participate in the Title IV programs, schools must demonstrate that they have the administrative capability to meet the statutory requirements of Title IV and the Department’s implementing regulations (34 C.F.R. Section 668.16(a)). To be considered administratively capable, schools must employ an adequate number of qualified persons and administer the Title IV programs with adequate checks and balances in a system of internal controls (34 C.F.R. Section 668.16(b)(2) and (c)(1)). These requirements apply to a school’s administration of its Clery Act compliance program. Schools must also sign a Program Participation Agreement with the Department as a condition of their participation in the Title IV programs. In the agreement, schools affirm that they will comply with all applicable regulations and requirements, including the campus crime reporting requirements of the Clery Act. Schools should have effective internal controls over their Clery Act crime reporting processes to provide reasonable assurance that the schools will comply with these reporting requirements.

Internal controls are processes effected by an entity’s oversight body, management, and other personnel to provide reasonable assurance that the entity will achieve its objectives related to operations, reporting, and compliance. The Clery Act Handbook

describes Clery Act requirements and provides recommendations for additional processes that schools could implement to strengthen their internal controls. However, the Clery Act Handbook does not address all internal controls that may be applicable or appropriate to Clery Act crime reporting. Schools have broad discretion in designing internal controls that respond to their unique operations and circumstances.

Two widely accepted frameworks of internal control are the Committee of Sponsoring Organizations of the Treadway Commission’s “Internal Control—Integrated Framework” (Integrated Framework) and the U.S. Government Accountability Office’s “Standards for Internal Control in the Federal Government” (known as the Green Book). Georgia’s State Accounting Office provides statewide internal control guidance that applies to all State entities, including North Georgia. In December 2015, the State Accounting Office announced that it would shift from basing its internal control guidance on the Integrated Framework to basing it on the Green Book. The State Accounting Office issued statewide internal control guidance based on the Green Book in March 2016. Both the Integrated Framework and the Green Book contain the same five components of internal control, which are control environment, risk assessment, control activities, information and communication, and monitoring. The two frameworks also contain similar underlying principles that represent the standards of each component. Generally, the Integrated Framework focuses on the needs of the private sector while the Green Book adapts the principles of the Integrated Framework for the government environment. We refer to the shared standards included in both the Green Book and the Integrated Framework as the “standards of effective internal control” in this report. We used the standards of effective internal control as a framework for evaluating the design, implementation, and operating effectiveness of North Georgia’s internal controls that were significant to the audit objective.

Finding. North Georgia Did Not Have Effective Controls to Ensure that it Reported Complete and Accurate Clery Act Crime Statistics

North Georgia's Clery Act crime statistics for calendar years 2015–2017 were not complete or accurate. We identified records of criminal incidents that North Georgia should have reported but did not and errors in the classification of the crimes that North Georgia did report. As a result, North Georgia's Clery Act crime statistics did not provide reliable information to current and prospective students, their families, and other members of the campus community for making decisions about personal safety and security at North Georgia.

North Georgia did not have effective controls to ensure that it reported complete and accurate Clery Act crime statistics. North Georgia had processes for activities related to crime reporting under the Clery Act, including identifying its Clery Act geography, requesting crime statistics from local law enforcement agencies, identifying CSAs and collecting crime reports from CSAs, processing and compiling crime information, and reporting annual Clery Act crime statistics by the reporting deadline. However, these processes did not provide reasonable assurance that the reported crime statistics would be complete and accurate. Specifically, North Georgia did not have effective processes to identify critical information sources for Clery Act reporting; collect, record, and track the information; analyze, report, and document the crime statistics; or provide management oversight and quality assurance over the Clery Act crime reporting process. Additionally, North Georgia did not follow all applicable Clery Act requirements and guidance, which, if followed, would help support the completeness and accuracy of the reported crime statistics.

The control weaknesses occurred because North Georgia did not allocate sufficient resources or personnel with the right skillsets to help design and implement its Clery Act crime reporting processes. The entire crime reporting activity was assigned to one staff member as a supplemental responsibility in addition to numerous other duties. North Georgia did not involve staff with legal, risk management, audit, internal control, or Federal education compliance experience to design a Clery Act crime reporting process with appropriate controls that would align with applicable internal control standards and meet compliance requirements.

Reported Crime Statistics Were Not Complete and Accurate

North Georgia did not include all reportable crimes in its Clery Act crime statistics as required by 34 C.F.R. Section 668.46(c)(1) and (2). We reviewed crime incident records

and other documentation supporting the crime statistics that North Georgia reported for its two largest campuses, Dahlonega and Gainesville, during calendar years 2015–2017, and found errors in the completeness and accuracy of the reported crime statistics for those two campuses as well as differences between the crime statistics that North Georgia reported in the Department crime survey and published in its annual security report. Based on our review, we concluded that North Georgia’s reported Clery Act crime statistics for calendar years 2015–2017 were not complete and accurate and thus did not provide reliable information to students and other members of the campus community for decision-making.

Completeness of Reported Crime Statistics

To evaluate the completeness of North Georgia’s reported Clery Act crime statistics, we tested selected crime incident records⁸ from North Georgia’s police and student conduct record systems and other available records to identify incidents that occurred on the Dahlonega and Gainesville campuses during calendar years 2015–2017. We identified 21 criminal incidents that North Georgia should have reported but did not. North Georgia reported 36 criminal incidents at the Dahlonega and Gainesville campuses during the audit period; 1 incident was reported in error when no crime had occurred. However, North Georgia should have reported at least 56 criminal incidents (36 incidents it reported, less 1 incident reported in error, plus 21 additional incidents that we identified). As a result, North Georgia underreported the number of criminal incidents in its Clery Act crime statistics by at least 37 percent. The 21 unreported crimes that we identified included 19 VAWA crimes and 2 hate crimes that should have been reported in 5 different crime classifications. Table 2 below summarizes the 21 unreported criminal incidents that we identified, including the number of crimes that North Georgia reported and should have reported in each of the 5 crime classifications where unreported crimes were identified.⁹

⁸ The “Records Selection and Testing Methodology” section of this report describes the scope of our completeness testing.

⁹ Appendix B presents all crimes that North Georgia reported during the audit period.

Table 2. Reportable Incidents by Crime Classification at Dahlonge and Gainesville from 2015–2017

Clery Act Crime Classification	Number of Unreported Incidents	Number of Reported Incidents	Total Number of Reportable Incidents	Unreported Incidents as a Percentage of Classification Total
Rape	1	2	3	33 percent
Fondling	5	5	10	50 percent
Dating Violence	5	4	9	56 percent
Stalking	8	15	22 ^b	36 percent
Hate Crime (Vandalism)	2	0	2	100 percent
All Other Crimes ^a	0	10	10	0 percent
Total	21	36	56 ^b	-

^a Includes the total of crimes reported in all other crime classifications: burglary (7), motor vehicle theft (2), and domestic violence (1). We did not identify reporting errors for these other crime classifications.

^b North Georgia reported one stalking incident in error when no crime had occurred. Because this incident should not have been reported, we excluded it from the total number of reportable incidents for stalking and for all crime classifications.

Due to weaknesses in North Georgia’s internal controls over its reporting of Clery Act crime statistics, we concluded that the actual number of reportable Clery Act crimes at North Georgia could be higher than the number we identified. Some incident records contained information indicating that a reportable Clery Act crime may have occurred, but the records were missing key information needed to establish whether the incident was reportable. The total number of unreported crimes presented in Table 2 above includes only the incidents that contained enough information for us to establish all elements of a reportable Clery Act crime. North Georgia also lacked effective controls to ensure that Clery Act incidents were properly recorded in the school’s record systems and could be reliably identified for reporting purposes. As a result, we could not identify the total number of Clery Act crimes that North Georgia should have reported during the audit period.

Accuracy of Reported Crime Statistics

To evaluate the accuracy of North Georgia's reported Clery Act crime statistics, we reviewed the supporting documentation for each of the 36 criminal incidents and 8 unfounded incidents, totaling 44 incidents, that North Georgia reported between 2015–2017 at the Dahlonega and Gainesville campuses. We determined that 6 of the 44 total incidents (14 percent) were not reported in the correct crime classification in accordance with applicable Clery Act reporting requirements, as shown in Table 3.

Table 3. Clery Act Crimes Not Reported Accurately

How Incident Was Reported	How Incident Should Have Been Reported
Fondling	Rape
Stalking	Reported in error (crime did not occur)
Unfounded fondling	Fondling (not unfounded) ^a
Unfounded fondling	Fondling (not unfounded) ^a
Unfounded dating violence	Dating violence (not unfounded) ^a
Unfounded stalking	Stalking (not unfounded) ^a

^a We included these incidents in the total number of unreported crimes in Table 2 above because they should have been reported as crimes but were not.

Differences in Reported Crime Statistics

We compared the crime statistics that North Georgia reported to the Department in the crime survey with the statistics that it reported in its annual security report, which North Georgia distributed to students and employees, and identified three instances where the crime counts did not match. North Georgia officials reviewed the differences and told us that in two cases, the numbers North Georgia reported in the crime survey were correct, and in the other case, the number reported in the annual security report was correct. The differences, which appear to be data entry errors, are shown in Table 4.

Table 4. Differences Between Clery Act Crime Statistics in the Annual Security Report and Crime Survey

Crime	Annual Security Report	Department Crime Survey	Correct Count (per North Georgia)
Non-campus burglary	2	1	1
Public property stalking	0	1	0
On campus burglary	1	0	0

Crime Statistics Did Not Provide Reliable Information for Decision-making

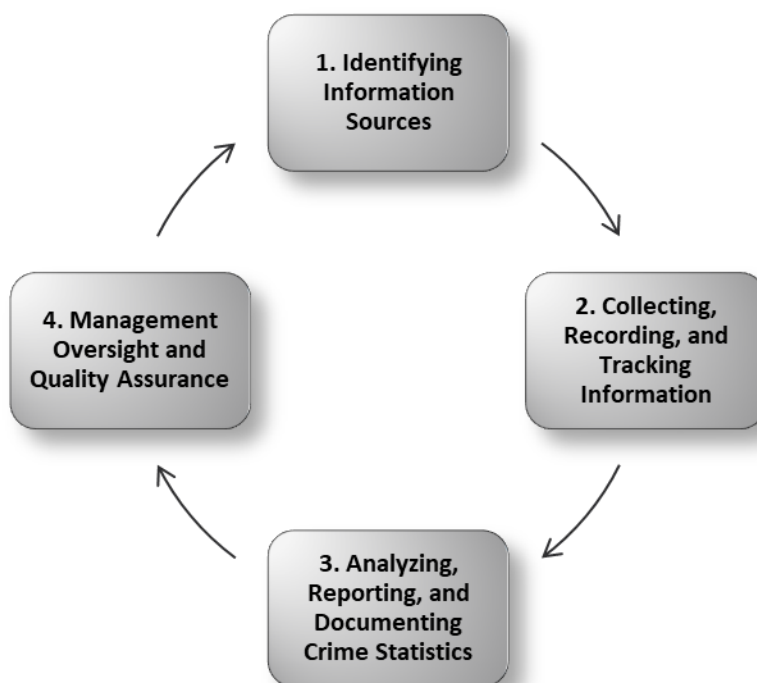
North Georgia's reported Clery Act crime statistics did not provide complete and accurate campus crime information to current and prospective students, their families, and other members of the campus community for decision-making. North Georgia underreported the number of criminal incidents at its two largest campuses. Users of the Clery Act crime statistics may have relied on North Georgia's statistics when comparing schools and making decisions related to personal safety and security, including where to go to school. To ensure the public can make valid comparisons and informed decisions based on reliable crime statistics, it is important that all schools design and implement consistent reporting processes in accordance with standards of effective internal control and Clery Act requirements.

Weaknesses in Internal Control Over the Reporting of Clery Act Crime Statistics

We determined that North Georgia had not designed and implemented internal controls necessary to provide reasonable assurance that its reported crime statistics would be complete and accurate. Further, we found that North Georgia's processes for reporting Clery Act crime statistics did not follow all applicable requirements and guidance in the Clery Act Handbook, which, if followed, would help support the completeness and accuracy of the reported crime statistics. Based on the guidance from the Clery Act Handbook and the standards of effective internal control, we identified four significant control areas for the Clery Act crime reporting process and determined that North Georgia had internal control weaknesses in all four areas. Specifically, we determined that North Georgia did not have effective processes to (1) identify critical information sources for the Clery Act crime statistics, (2) collect, record, and track the information,

(3) analyze, report, and document the crime statistics, or (4) provide management oversight and quality assurance over the Clery Act crime reporting process. See Figure 1.

Figure 1. Significant Control Areas for the Clery Act Crime Reporting Process



1. Identifying Information Sources

North Georgia did not design and implement effective controls to ensure that it identified all relevant information sources to use when preparing the annual Clery Act crime statistics. North Georgia did not properly identify its CSAs, who have the vital role of receiving reports of alleged crimes that must be included in the school's Clery Act crime statistics. North Georgia also did not have effective processes to communicate CSA roles and responsibilities or to identify other important information sources needed for complete and accurate Clery Act crime statistics.

Identifying CSAs

CSAs are an important source of the crime information that is reported in the Clery Act crime statistics. CSAs collect information about alleged Clery Act crimes from members of the campus community and report the incidents to the Clery Coordinator for inclusion in the Clery Act crime statistics. CSAs have significant responsibilities for student and campus activities (34 C.F.R. Section 668.46(a)(iv)), and include all campus police department personnel and other campus security personnel, athletic coaches, resident advisors in student housing facilities, faculty advisors to student groups, Title IX

coordinators,¹⁰ and many others (Clery Act Handbook pgs. 4-2 and 4-3). Because the responsibilities of individual staff positions vary across schools, the Clery Act requirements and guidance do not list all positions that meet the definition of a CSA. Instead, each school identifies its CSAs based on the specific responsibilities of each staff position.

North Georgia did not have a process to evaluate every staff position and identify which staff members were CSAs or to update its CSA listing during new employee onboarding and throughout the year to reflect changes in staffing. North Georgia identified CSAs for each year retroactively (for example, during calendar year 2018 it identified the staff who had been CSAs in 2017). North Georgia's CSA listings for 2015 and 2016 consisted only of individuals who were faculty or staff advisors to student organizations. While these officials are CSAs, they are only one of many groups of officials who meet the CSA definition. North Georgia added more staff positions to its CSA listing for 2017, including positions in Student Affairs and Academic Advising. However, North Georgia's 2017 CSA listing did not include many of the campus officials who should have been classified as CSAs based on their responsibilities for student and campus activities.

We reviewed staff positions in judgmentally selected departments to determine whether North Georgia had correctly identified the positions as CSAs. We obtained North Georgia's 2017 staff listing for three campus departments that had significant responsibility for student and campus activities (Public Safety, Residence Life, and Athletics) and compared it to the school's 2017 CSA listing. We determined that 74 of the 89 staff members in the 3 departments met the definition of a CSA but had not been identified as CSAs in 2017. We also found that North Georgia did not identify 158 resident advisors and directors as CSAs in 2017. Overall, we identified 232 school officials who met the definition of a CSA in 2017 that North Georgia did not classify as CSAs. North Georgia identified about 300 CSAs during each year of the audit period, including 298 CSAs in 2017, but the correct total number of CSAs in 2017 should have been at least 530.¹¹

¹⁰ Title IX of the Education Amendments of 1972 (Title IX), is a Federal law that protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Clery Act crimes such as rape, dating violence, and stalking are reported to a school's Title IX office.

¹¹ Because our review was limited to positions in three departments and not the entire school, additional personnel beyond those that we identified may have also met the definition of a CSA in 2017.

Communicating CSA Roles and Responsibilities

Due to the importance of CSAs in the Clery Act crime reporting process, schools should have effective internal controls to help ensure that CSAs understand their roles and responsibilities. We found that North Georgia did not have an effective process for notifying its personnel that they were CSAs or training them on their responsibilities as a CSA. The Clery Coordinator distributed one email to CSAs each year that served to (a) notify them that they were CSAs, (b) provide optional training material on the Clery Act, and (c) request that the CSAs provide crime reports, if applicable. The Clery Coordinator sent this email to CSAs after the end of each year to request crime information for the prior year. Due to the retroactive timing of the notification, some CSAs did not know they were CSAs during the year in which they had CSA reporting responsibilities and would not have known to record details of incidents that were significant for Clery Act reporting purposes. Further, since North Georgia's staff position descriptions did not include CSA responsibilities and North Georgia did not have a process for supervisors to notify their staff of their CSA responsibilities, CSAs would not have understood that CSA reporting was a part of their official duties as school employees. North Georgia also did not require all CSAs to complete training to ensure that they had a sufficient understanding of the Clery Act and the CSA role to effectively carry out their reporting responsibilities. The annual email to CSAs included training material as an attachment, but reviewing the material was not required and North Georgia did not track whether the CSAs had reviewed the training material.

An example of an effective process for ensuring that all CSAs are properly identified, notified, and trained could include schools evaluating each new hire to determine whether their position meets the definition of a CSA and then notifying and training all CSAs on their responsibilities during the new employee onboarding process and on an ongoing basis thereafter.

Identifying Other Sources of Information

Under an effectively controlled process, CSAs should report crime information to the Clery Coordinator for inclusion in the school's Clery Act crime statistics in accordance with the school's established CSA reporting processes. In addition, schools should identify information sources that can be used to verify that CSAs are properly reporting crime incidents in accordance with school policy and to help ensure that the crime statistics are complete and accurate. As discussed later in this finding, North Georgia did perform limited reviews of information from its police and student conduct record systems to identify reportable crime statistics. However, we found that North Georgia did not have processes to identify and periodically review other relevant sources of information from campus departments that could be used to validate the completeness and accuracy of the crime statistics, such as daily activity logs from student housing, the

Corps of Cadets,¹² or student health services. The combination of the CSA reporting and periodic review of information in record systems would provide reasonable assurance that all criminal incidents reported to CSAs were properly included in the Clery Act crime statistics.

North Georgia also did not design and implement effective controls to ensure that other information affecting the completeness and accuracy of the Clery Act crime statistics was identified and communicated to the Clery Coordinator in a timely manner. North Georgia did not have an effective process to identify information about school operations that could affect the Clery Act geography. Although there was some communication between the Clery Coordinator and officials responsible for North Georgia's facilities and operations regarding the property that the school owned and controlled, there was no effective process to regularly identify and communicate updates and incorporate them into the campus Clery geography in a timely manner. As a result, the Clery Coordinator did not know that North Georgia had begun holding classes at a specific property, and thus did not identify the property as part of the school's Clery Act geography. Knowing the properties included in the school's Clery Act geography enables the Clery Coordinator to report crimes by location as required by 34 C.F.R. Section 668.46(c)(5) and request law enforcement crime statistics for each location as required by 34 C.F.R. Section 668.46(c)(11). North Georgia also did not have a process to identify buildings or property owned or controlled by student organizations, which should be included in the school's Clery Act geography (34 C.F.R. Section 668.46(a)).

2. Collecting, Recording, and Tracking Information

North Georgia did not design and implement effective processes to collect, record, and track reported allegations of crimes that should have been included in its Clery Act crime statistics. CSAs generally did not use North Georgia's designated crime reporting process of submitting crime report forms to the Clery Coordinator. Instead, the Clery Coordinator reviewed information about alleged crimes contained in the school's police and student conduct record systems to identify reportable Clery Act incidents. However, North Georgia did not have effective controls over the recording of incidents in the systems to ensure that those incidents could be properly tracked and reported.

¹² North Georgia is designated by the Department of the Army as a Senior Military College and operates a Corps of Cadets organization of 700 cadets.

Collecting Crime Reports from CSAs

North Georgia did not design and implement an effective or timely process for CSAs to report crime information for inclusion in the Clery Act crime statistics. Under North Georgia's designated CSA reporting process, the Clery Coordinator sent an annual email to CSAs to request that they submit a completed reporting form for each crime that had been reported to them during the prior year. North Georgia did not require CSAs to report Clery Act crimes on an ongoing basis throughout the year. Collecting reports only at the end of the year is not an effective or timely practice because CSAs may not remember each Clery Act incident that was brought to their attention during the year or recall the pertinent details of those incidents months later. Requiring CSAs to report crimes only at the end of the year could also adversely impact a school's ability to evaluate crime information in real time and issue timely warnings in cases of ongoing threats to student safety as required by the Clery Act.¹³

We found that North Georgia's CSAs generally did not use the designated reporting process of submitting CSA reporting forms to the Clery Coordinator for Clery Act crimes. North Georgia received a CSA crime reporting form for only 2 of the 56 reportable criminal incidents that we identified during the audit. North Georgia personnel recorded the remaining 54 criminal incidents in the school's police and student conduct record systems but did not report them to the Clery Coordinator even though 10 of the incidents had been reported to people that North Georgia had identified as CSAs.

Using Information Systems to Record and Track Crime Incidents

Many school officials, including those who met the definition of a CSA, recorded job-related information in North Georgia's police and student conduct record systems. This information included alleged crimes and student conduct violations that were potentially reportable under the Clery Act. For example, campus police dispatchers and other police personnel recorded alleged crimes in the police record system and personnel in the Title IX office recorded alleged incidents of sexual misconduct in the student conduct record system. However, the school officials were not recording information in the systems specifically for Clery Act reporting purposes as part of their role as CSAs. Instead, they were recording the information as part of their primary job duties as police officers, Student Conduct personnel, or Title IX personnel.

North Georgia did not have effective processes for recording and tracking the Clery Act-related crime incidents in the police and student conduct record systems so that they

¹³ Assessing North Georgia's controls over compliance with the Clery Act's timely warning requirements was outside the scope of our audit.

could be readily and reliably identified for reporting purposes. We could not identify the complete population of Clery Act incidents contained in the systems without reviewing 100 percent of the records.¹⁴ All of the criminal incidents that North Georgia reported in its Clery Act crime statistics flowed through North Georgia's police record systems, student conduct record system, or both. However, the annual request for CSAs to submit crime reporting forms did not state that CSAs could report incidents through the school's record systems instead of using the CSA reporting form or provide any guidance to CSAs on how to properly record incidents in the record systems to ensure that the incidents could be identified and tracked for Clery Act reporting purposes.

The police and student conduct record systems included built-in tools and analytical reports that could have enabled North Georgia to categorize and track Clery Act incidents for Clery Act reporting purposes. For example, the student conduct record system contained an option for users to flag incidents that might be reportable under the Clery Act with a "review for Clery" flag. The system also had the capability to send an email to notify the Clery Coordinator each time an incident was flagged for Clery Act review. However, North Georgia had not widely implemented the use of either of these features. The student conduct record system also enabled users to categorize the subject matter of each incident using a dropdown menu of student conduct violations (for example, stalking, domestic violence, or sexual assault), but North Georgia did not have controls to ensure that it consistently placed each incident in the most appropriate category for Clery Act reporting purposes. If North Georgia had controls over the recording of information in the student conduct record system, it could have identified which conduct violations were relevant to Clery Act crime reporting and configured the system to run a "Clery Crosscheck Report" to pull all cases with relevant conduct violations into a single report. The campus police record systems also contained features to enable users to flag and track potential Clery Act incidents, but North Georgia had not used these features for Clery Act reporting purposes.

Since many of North Georgia's CSAs have already used the police or student conduct record systems on a daily basis as part of their primary job duties, designing and implementing an effectively controlled CSA reporting process using the same systems could be an efficient and timely method of reporting potential Clery Act crimes to the Clery Coordinator.

¹⁴ Reviewing all records was not feasible due to their high volume. For example, the calendar year 2017 police dispatch log for the Dahlonega campus alone was over 11,000 pages long.

3. Analyzing, Reporting, and Documenting Crime Statistics

North Georgia did not have effective controls over its processes for analyzing crime information to identify and compile the annual Clery Act crime statistics. The Clery Coordinator's processes relied on manual review, were prone to error, and increased the risks of significant omissions. North Georgia also did not apply organized record-keeping practices and did not retain appropriate documentation of its analysis and reporting of the Clery Act crime statistics.

Analyzing Information and Compiling Reportable Crime Statistics

Because North Georgia did not have effective processes for recording and tracking Clery Act crimes in its record systems, the Clery Coordinator could not run reports or queries to identify relevant incidents and instead relied on manual processes for identifying, analyzing, and compiling the crime statistics. These manual processes were labor-intensive, led to errors, and increased the risks of significant omissions. The Clery Coordinator told us that he manually reviewed all cases in the police and student conduct record systems to identify reportable Clery Act crimes. However, we determined that he had not reviewed all applicable crime reports in the student conduct record system. Eleven of the 21 unreported crimes that we identified during the audit had been recorded in the student conduct record system. Based on the Clery Coordinator's access logs for the system, we found that he had accessed only 2 of the 11 unreported crimes. After we shared our audit results with North Georgia, officials stated that they had identified a breakdown in the process for reviewing incidents in the student conduct record system. The Clery Coordinator believed he was reviewing all incoming incidents, but due to his method of accessing the information in the system, there were additional incidents that he never saw.

During the audit period, there were also extensive access restrictions on the Clery Coordinator's account in the student conduct record system that prevented him from accessing information and tools that were essential to effectively performing his job. The Clery Coordinator told us that his access to certain information in the student conduct record system was restricted and that he was prohibited from viewing some information in files associated with ongoing Title IX investigations. We reviewed the Clery Coordinator's access logs for the student conduct record system and determined that his access had been restricted on over 28 percent of the cases (54 of 191) that he

attempted to view during the audit period.¹⁵ As a result, he could not directly review the files associated with these incidents to determine whether they were reportable under the Clery Act. The Clery Coordinator also did not have access to the system's built-in suite of analytical tools and could not query the data in the system or run standard reports, including the reports that we used during our audit to identify potential Clery Act incidents for review. Instead, the Clery Coordinator had to manually review the high volume of incoming entries in the system to attempt to identify reportable crimes. North Georgia officials told us that the Clery Coordinator's access to the system had been restricted unintentionally.

North Georgia did not identify reportable Clery Act crime statistics from all sources on an ongoing basis throughout the year and instead compiled the reportable statistics for the year on an annual basis. Beginning in 2017, the University System of Georgia began requiring its schools to submit their Clery Act crime statistics to the University System on a quarterly basis. This measure was intended to encourage schools to keep a running total of reportable crimes throughout the year rather than waiting until the annual statistics were due to identify the reportable crimes for the entire year. North Georgia complied with the University System's requirement to submit quarterly statistics but submitted statistics that included crime information from only the police record systems and did not include crimes from the student conduct record system.¹⁶ North Georgia should identify Clery Act crime statistics from all applicable sources on an ongoing basis throughout the year. This practice supports the completeness and accuracy of the crime statistics by enabling timely and thorough reviews of crime information from all sources and provides opportunities for communication with relevant parties for clarification of key details of reported incidents.

Retaining Supporting Documentation for Reported Crime Statistics

Schools are required to retain all supporting records used in compiling their Clery Act crime statistics (Clery Act Handbook, pg. 9-11). As part of an effective system of internal control, schools should retain documentation of the crime records and significant decisions affecting the reported crime statistics to enable a supervisor or other internal or external reviewer to review the completeness and accuracy of the reported crime

¹⁵ The Clery Act crime statistics are due in October of each year for the prior calendar year. We reviewed the Clery Coordinator's activity in the student conduct record system from October 2015 to October 2018 because that covered the 3-year period when the Clery Coordinator was compiling the crime statistics for calendar years 2015–2017.

¹⁶ Only the annual submission included crime reports from the student conduct record system.

statistics. We identified significant weaknesses in the documentation supporting North Georgia's reported crime statistics. For example, North Georgia retained a record of its most current Clery Act campus geography but did not retain records of the geography that was in effect during each year of the audit period. As a result, we could not determine whether North Georgia had correctly analyzed available information to identify any updates to the Clery Act geography or properly reported crime statistics in accordance with the geography for our audit period.

North Georgia also did not have effective processes for tracking the reportable Clery Act crime statistics for the current year or prior years. The records supporting the reported crime statistics consisted of a hardcopy file of printed crime reports. North Georgia maintained a summary index to indicate the total reportable crimes in each category and identify which underlying crime records corresponded to the reported crime statistics for only 1 of the 3 years covered by our review. North Georgia did not consistently annotate all of the underlying crime incident records to identify how the incidents had been reported. Not having an overall summary index for 2 of the 3 years covered by our review in conjunction with missing and inconsistent annotations on underlying records increased the risk of errors when the school aggregated the annual statistics for reporting in the Department crime survey and annual security report. To provide adequate support, records for the Clery Act crime statistics should identify the school's determination of how each incident was reported, including the year in which the crime was reported, crime type, campus location, and applicable Clery Act geography category.

4. Management Oversight and Quality Assurance

North Georgia did not have effective internal controls for management oversight and quality assurance over its Clery Act crime reporting process. Specifically, North Georgia's written policies and procedures for the Clery Act crime reporting process were not adequate. Additionally, North Georgia did not have management oversight or quality assurance processes to detect errors in the crime statistics or a monitoring process to periodically assess the effectiveness of its internal controls over the Clery Act crime reporting process.

Written Policies and Procedures

Written policies and procedures are part of effective internal controls. Policies and procedures facilitate management oversight and support quality assurance by documenting the internal control responsibilities of the people who carry out the process. North Georgia had written policies and procedures for limited aspects of its Clery Act crime reporting process. However, we reviewed the written policies and procedures and determined that they were not adequate because they did not cover all

significant aspects of the Clery Act crime reporting process or cover related activities in a sufficient level of detail. For example, the procedures stated that the Clery Coordinator was responsible for compiling and reporting the Clery Act crime statistics but did not provide any detailed guidance on how to carry out those responsibilities. The procedures also stated that the Clery Coordinator should prepare the statistics in accordance with the instructions of the Uniform Crime Reporting Handbook but did not reference or incorporate the requirements of the Clery Act Handbook.¹⁷ Additionally, the procedures stated that the Clery Coordinator was responsible for notifying CSAs of their responsibilities in reporting crime information but did not include a description of the CSA crime reporting process itself, such as how and when CSAs should report crime information. Further, the Clery Coordinator acknowledged that he did not know what was covered by the school's policies and procedures.

Written policies and procedures for an effective Clery Act crime reporting process would typically:

1. cover all significant aspects of the school's Clery Act crime reporting processes and activities, including activities for (a) identifying information sources for the Clery Act crime statistics; (b) collecting, recording, and tracking the information; (c) analyzing the information and reporting crime statistics; and (d) providing for management oversight and quality assurance related to the crime statistics;
2. identify personnel responsible for each activity;
3. include procedures for how to perform required tasks;
4. include templates for any forms that are used during the process; and
5. require that the school's policies and procedures be evaluated periodically and updated to reflect changes to the process.

Review Processes for the Crime Statistics

North Georgia did not have management oversight or quality assurance processes to review the completeness and accuracy of the reported Clery Act crime statistics or to verify that the statistics had been prepared in accordance with applicable requirements. The crime statistics were prepared by one person and were not reviewed by a supervisor or other party to identify classification errors, omissions of reportable crimes, or other quality issues. The Clery Coordinator provided the Clery Act crime statistics to

¹⁷ The Uniform Crime Reporting Handbook provides guidance on the proper Uniform Crime Reporting classification of crimes but does not include information about Clery Act crime reporting. Additionally, the Uniform Crime Reporting Handbook is primarily a law enforcement reference and the criteria for defining a reportable incident in the handbook differs from the Clery Act Handbook.

his supervisor for information purposes only. The Clery Coordinator's supervisor had previously been responsible for reporting Clery Act crime statistics at a different school, but despite this prior Clery Act experience, did not have a role in reviewing North Georgia's submission of Clery Act crime statistics or its processes for collecting and preparing the crime statistics.

Schools can design their management oversight and quality assurance review processes based on organizational needs, resources, and objectives. Review processes relevant to the Clery Act crime statistics could include periodically performing any of the following activities on a test basis to assess the completeness and accuracy of the crime statistics:

1. verifying that the school has correctly identified its Clery Act geography;
2. verifying that the school requested crime statistics from local law enforcement agencies with jurisdiction over the school's entire Clery Act geography and identified any reportable crimes in the statistics it received;
3. confirming that the CSA listing is complete and current, and that CSAs are notified and trained;
4. reviewing supporting crime records to confirm accurate reporting of the specific crime incidents included in the crime statistics;
5. verifying the completeness of the crime statistics by identifying reportable crimes in the school's underlying records and confirming that they are included in the crime statistics; and
6. screening for data entry errors in the crime statistics that the school reports in the annual Department crime survey and the annual security report before finalizing the reported data.

Monitoring

North Georgia did not have a monitoring process for its Clery Act crime reporting function. Monitoring enables management to determine whether a system of internal control has been appropriately designed and implemented to meet the organization's objectives. Monitoring can include ongoing or separate evaluation of the function and may be performed by management or by other internal and external reviewers, such as the entity's internal audit division or outside reviewers. Detailed monitoring procedures can include many of the examples of review processes listed in the section above, but the emphasis of monitoring is on assessing the effectiveness of the system of internal controls as a whole and identifying areas for improvement.

Preventable Errors in the Crime Statistics

We identified systemic errors that may have been prevented or detected if North Georgia had designed and implemented effective review or monitoring processes. For example, there were data entry errors in the Clery Act crime statistics that North

Georgia reported in the Department's crime survey and the annual security report that may have been prevented if the entries had been reviewed. There was also an error in the identification of the Clery Act geography that led to North Georgia not requesting local law enforcement statistics from all applicable agencies. Additionally, North Georgia did not report some of the unreported crimes that we identified because the principles and definitions applicable to Clery Act crime reporting differed from those used by law enforcement in key respects. The Clery Coordinator applied the law enforcement principles instead of Clery Act principles when determining whether and how to report certain incidents. Under the Clery Act, schools are required to report all alleged criminal incidents reported by CSAs, regardless of whether the incidents were investigated or evidence was presented to substantiate that the crime occurred. In contrast, for law enforcement purposes, criminal cases require a higher standard of evidence to substantiate that a crime occurred. Further, under the Clery Act, an incident can only be considered "unfounded" if it has been investigated by a sworn law enforcement officer who finds evidence that the incident did not occur, while law enforcement considers an incident to be unfounded if there is no evidence that the incident did occur. Under the Clery Act, every crime reported to a CSA must be included in the crime statistics unless the incident is determined to be unfounded.

Reasons for the Internal Control Weaknesses

North Georgia's processes helped ensure that it reported Clery Act crime statistics by the annual reporting deadline but did not ensure that the reported crime statistics were complete and accurate. The processes also did not align to the standards of effective internal control or ensure that North Georgia reported Clery Act crime statistics in accordance with all applicable Department regulations and guidance. North Georgia did not identify or emphasize the reporting of complete and accurate Clery Act crime statistics as an objective. As a result, North Georgia did not identify significant risks to its ability to report complete and accurate crime statistics or manage those risks by designing and implementing appropriate controls over the reporting of the Clery Act crime statistics.

North Georgia did not allocate enough resources for the design and implementation of its Clery Act crime reporting processes. The Clery Act crime reporting activity was assigned to one staff member in the campus police department as a supplemental responsibility in addition to his numerous other campus law enforcement duties. North Georgia had a decentralized internal control structure where each department was responsible for designing appropriate internal controls over its own operations. North Georgia did not involve personnel with legal, risk management, audit, internal control, or Federal education program compliance experience in the design of the Clery Act crime reporting process. Personnel with those skillsets could have helped to design a

process that had appropriate controls that aligned with applicable internal control standards and met compliance requirements. North Georgia's Director of Internal Audit told us that North Georgia has experienced extensive growth in recent years and its internal control processes are evolving but have not yet developed into the processes that would typically be seen at a large institution with a more structured system of internal control.¹⁸

Recommendations

We recommend that FSA's Chief Operating Officer require North Georgia to—

- 1.1 Define objectives specific to reporting complete and accurate Clery Act crime statistics in accordance with the requirements of the Clery Act and the standards of effective internal control.
- 1.2 Identify and analyze risks related to reporting complete and accurate Clery Act crime statistics and design and implement internal controls to mitigate those risks and address the control weaknesses included in this finding.
- 1.3 Allocate appropriate resources and assign personnel with sufficient knowledge to design and implement the internal controls developed during the review described in Recommendation 1.2. This may include collaboration between knowledgeable personnel from multiple school departments, including personnel with legal, risk management, audit, internal control, or Federal education compliance experience.
- 1.4 Review school records for calendar years 2015–2017 to identify all incidents of reportable Clery Act crimes that should be included in North Georgia's Clery Act crime statistics. Amend the reported crime statistics to correct any errors in the reported Clery Act crime statistics. Corrections should include, but are not limited to, the specific reporting errors identified in this report.

¹⁸ North Georgia's student population has more than doubled since 2013 due to the combination of North Georgia College and State University with Gainesville State College and growth in the school's programs and student enrollment.

We also recommend that FSA's Chief Operating Officer—

- 1.5 Determine whether FSA should take action against North Georgia, including fine action under 34 C.F.R. Part 668 Subpart G, for the Clery Act violations identified in this report.

North Georgia Comments

North Georgia did not agree with our finding or recommendations. North Georgia said it was committed to taking all necessary steps to ensure that it complied with its obligations under the Clery Act and described 18 corrective actions that it had taken in response to the preliminary recommendations that we provided at the exit conference in November 2019. North Georgia said that it was unnecessary for us to issue the finding and recommendations because it had already taken corrective actions, and requested that we either not issue the finding and recommendations or update the report to reflect the corrective actions it had taken after the audit period.

North Georgia stated that it disagreed with OIG's recommendations that FSA require it to take specific actions related to its system of internal control and said that the recommendations were not supported by statute or regulation. North Georgia also disagreed with OIG's conclusion that it did not follow the standards of effective internal control. North Georgia said that the Department is prohibited from imposing specific internal control standards on schools and cited the text of the Clery Act at 20 U.S. Code Section 1092(f)(2), which states, "[n]othing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security." North Georgia stated that our finding and recommendations in the draft report should be considered recommendations relating to "best practices" and not serve as the basis for any compliance determinations.

North Georgia stated that it would be unfair to impose the standards of effective internal control on it, especially given our recommendation that FSA consider taking action against North Georgia under 34 C.F.R. Section 668 Subpart G, which could include civil penalties or suspension or termination from Title IV programs. North Georgia stated that FSA cannot impose any penalties until it has completed its own program review and issued a final determination on compliance. North Georgia further stated that the Department had never provided public notice that it would rely on the Green Book or the Integrated Framework to determine whether schools are complying with the Clery Act. North Georgia also said that required use of the Green Book's standards or the Integrated Framework as the Department's new internal control standards was contrary to two Executive Orders issued in October 2019 requiring Federal agencies to provide

public notice of any new rules before their imposition and that any new rules be developed through appropriate procedures.

Finally, North Georgia stated that it disagreed with 1 of the 6 accuracy errors and 4 of the 23 unreported criminal incidents that we included in the draft report. North Georgia provided its basis for disagreement by citing specific details of each incident and associated Clery Act reporting principles. We include the full text of North Georgia's comments at the end of this report. Although North Georgia did not refer to individuals by name when discussing whether certain incidents should be reported, we redacted some information that could be identifying to further protect the privacy interests of the parties discussed.

OIG Response

Although North Georgia did not agree with the finding or recommendations, the 18 corrective actions it described, if properly implemented, are generally responsive to Recommendations 1.1 through 1.4 in this report. Our report reflects North Georgia's Clery Act crime reporting processes during the audit period. We do not include the 18 corrective actions in our report because these processes were not in place during the audit period.

The requirement to have internal controls is not a new rule. As stated in the "Internal Controls" section of this report, 34 C.F.R. Section 668.16(c)(1) requires schools, such as North Georgia, to have adequate checks and balances in a system of internal control in order to participate in the Title IV programs. The Department does not require schools to follow a specific framework of internal control. We used the standards of effective internal control (common standards included in both the Green Book and Integrated Framework) to evaluate North Georgia's internal controls for two reasons. First, the State of Georgia issued internal control guidance that applied to all State entities, including North Georgia. The State of Georgia based its internal control guidance on the Integrated Framework during the earlier part of the audit period and then issued updated guidance based on the Green Book in March 2016. Second, we asked North Georgia if it used a specific internal control framework to help design its internal controls and North Georgia cited the Green Book.¹⁹ As a result, the standards of effective internal control provided a reasonable basis for assessing the design and implementation of North Georgia's internal controls that were significant to the audit objective.

¹⁹ The North Georgia audit liaison provided this information in written follow-up correspondence.

We did not use the standards of effective internal control to assess North Georgia's compliance with the Clery Act, but rather to evaluate North Georgia's internal controls over the reporting of its Clery Act crime statistics. Although the focus of our audit was on internal controls, we conducted the audit in accordance with generally accepted government auditing standards which require us to report any instances of noncompliance that are significant to the audit objective. Consequently, we included instances of noncompliance that were significant to the audit objective in this report. We cite appropriate compliance criteria from 34 C.F.R. Section 668.46 to support each compliance deficiency noted in this report.

Our recommendations are intended to ensure that North Georgia designs and implements effective internal controls for reporting complete and accurate Clery Act crime statistics. We recommend that North Georgia identify the risks to reporting complete and accurate Clery Act crime statistics, including the control weaknesses identified in this report, and design and implement internal controls to mitigate those risks. However, our recommendations do not specify the particular processes that North Georgia must include in its system of internal controls. The standards of effective internal control state that an entity's internal control is flexible to allow management to tailor control activities to meet the entity's special needs. North Georgia can design and implement the processes that provide reasonable assurance in achieving the objective of reporting complete and accurate Clery Act crime statistics.

North Georgia's comment that the Department may not take action under 34 C.F.R. Part 668 Subpart G without first completing a program review and issuing a final determination is not correct. Subpart G specifies the required procedures, which do not include a separate program review.

We reviewed the information that North Georgia provided related to the one accuracy error and four unreported criminal incidents with which it did not agree. We agreed with North Georgia's comments for two of the unreported criminal incidents (C-9 and C-15) and removed them from the finding based on the additional information that North Georgia provided. We did not agree with North Georgia's comments on the accuracy error or the remaining two unreported criminal incidents for the reasons specified below.

- Incident A-7 was an accuracy error because North Georgia reported the incident as unfounded when it did not meet the Clery Act definition of unfounded. This incident was reportable as stalking because the reported course of conduct, which included threats of suicide, would cause a reasonable person to suffer substantial emotional distress. Further, North Georgia indirectly acknowledged

the validity of the accuracy error when it commented that its original reporting of the incident was incorrect.

- Incident C-14 was reportable as stalking because the course of conduct included one act that occurred on the Clery Act geography, when the alleged stalker came to campus to find the victim. Only one act within a course of conduct must occur on the Clery Act geography for the stalking to be reportable, and an act within a course of conduct includes “acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person” (Clery Act Handbook pg. 3-38).
- Incident C-16 was reportable as stalking because the reported incident met the Clery Act definition of stalking, including a course of conduct that was directed at a particular person. Although the campus police concluded that this incident was unfounded for law enforcement purposes, the circumstances of the incident did not meet the Clery Act definition of unfounded. We address differences between the law enforcement and Clery Act definitions of “unfounded” in the section “Preventable Errors in the Crime Statistics” of our report.

With respect to Recommendation 1.5, 34 C.F.R. Part 668 Subpart G includes various actions that FSA can take against schools, including fines and the limitation, suspension, or termination of a school’s participation in the Title IV programs. We modified Recommendation 1.5 to identify a fine as an action that FSA can consider under Subpart G. However, FSA will ultimately determine what action, if any, is appropriate. The changes to the report did not have a material effect on the finding or recommendations.

Other Matter. North Georgia's Daily Crime Log Did Not Meet Requirements

Schools with a campus police department are required to maintain a daily log of all crimes that occur within their Clery Act geography and are reported to the campus police (34 C.F.R. Section 668.46(f)). The crime log is intended to provide crime information to students and school staff timelier than the annual Clery Act crime statistics. We reviewed North Georgia's daily crime log to determine how North Georgia used the log. The Clery Act Handbook provides schools with the flexibility to use either Uniform Crime Reporting classifications (which correspond to the classifications used in the Clery Act crime statistics) or local crime classifications in the daily crime log. North Georgia used local crime classifications. When a school uses local crime classifications instead of the Uniform Crime Reporting classifications, it may not be possible to reconcile the crime log to the reported crime statistics due to differences in how crimes are defined and classified. For example, "sexual battery" is a crime under the State of Georgia Code, but it is not possible to determine whether an incident of sexual battery corresponds to the Clery Act crimes of fondling or rape without reviewing the underlying crime incident records.

Due to the differences in crime classifications between North Georgia's Clery Act crime statistics and its daily crime log, we concluded that the crime log did not function as a control over the completeness or accuracy of the crime statistics. However, we identified a reportable weakness related to North Georgia's daily crime log during our review. The crime log should include crimes reported to the campus police or security department, including crimes initially reported to a CSA or local law enforcement agency that are subsequently reported to the campus police or security department (Clery Act Handbook, pg. 5-3), and should be updated within 2 business days of the receipt of the crime report (34 C.F.R. Section 668.46(f)(2)). However, North Georgia's daily crime log only included incidents that were reported to the campus police and recorded in the police record systems. North Georgia did not enter crime reports from other sources into the crime log, such as Clery Act crimes that were reported by CSAs.

We suggest that North Georgia revise its crime log procedures to ensure that it enters reported crimes from all applicable sources into the log within 2 business days of the receipt of the crime report.

North Georgia Comments

North Georgia did not provide any comments on the Other Matter section.

Appendix A. Scope and Methodology

We evaluated North Georgia's processes (policies, procedures, and activities) for collecting, analyzing, and reporting Clery Act crime statistics for the Department's 2018 crime survey, which presented crime statistics for calendar years 2015–2017. Our review covered North Georgia's reporting of criminal offenses, hate crimes, and Violence Against Women Act (VAWA) crimes. We did not assess North Georgia's reporting of arrests and disciplinary referrals for violations of weapons, drug abuse, and liquor laws. We also did not assess North Georgia's controls over compliance with Clery Act requirements not directly related to the completeness and accuracy of the crime statistics, including those for emergency response and evacuation, timely warnings, policy statements, missing student notifications, or fire safety.

We performed the following procedures to answer the audit objective:

1. Reviewed the Clery Act (HEA Section 485(f)), implementing regulations (34 C.F.R. Section 668.46), and Department guidance (Clery Act Handbook) to gain an understanding of school responsibilities for collecting, processing, and reporting complete and accurate Clery Act crime statistics.
2. Reviewed the Green Book (GAO-14-704G, September 2014) and the Integrated Framework (May 2013) and identified the standards of effective internal control that were common to both the Green Book and the Integrated Framework. Used the standards of effective internal control and the Clery Act Handbook to identify the internal controls that were significant to the audit objective and to assess the design, implementation, and operating effectiveness of those controls.
3. Interviewed officials at the University System of Georgia and North Georgia to gain an understanding of North Georgia's overall internal control structure and processes for collecting, analyzing, and reporting Clery Act crime statistics.
4. Obtained and reviewed documentation related to North Georgia's processes for collecting, analyzing, and reporting Clery Act crime statistics, including documentation related to the following areas:
 - a. identifying and updating the Clery Act campus geography;
 - b. requesting crime statistics from local law enforcement agencies;
 - c. identifying, notifying, and training CSAs;
 - d. maintaining a CSA reporting process;
 - e. maintaining the daily crime log;
 - f. processing and compiling the annual Clery Act crime statistics; and

- g. reporting the annual Clery Act crime statistics in the annual security report and the Department crime survey.

Records Selection and Testing Methodology

Due to the weaknesses in North Georgia's processes for collecting, recording, and tracking crime reports, we could not identify a reliable population of all potentially reportable Clery Act incidents during the audit period. As a result, we did not perform sampling to identify crime incidents for testing. Instead, to assess the completeness of the reported Clery Act crime statistics, we identified groups of crime incidents from the school's records that were potentially reportable under the Clery Act and reviewed 100 percent of the incidents in those groups. We limited the scope of our testing to crime incidents that occurred at North Georgia's two largest campuses, Dahlonega and Gainesville, because nearly 90 percent of North Georgia's reported criminal incidents occurred on those campuses.

To identify potentially reportable Clery Act crime incidents for testing, we reviewed crime records in each major record system that North Georgia used to record Clery Act-related incidents during the audit period: the student conduct record system and two campus police record systems. We performed queries and keyword searches to identify incidents that may be reportable under the Clery Act, using our professional judgment to identify relevant search terms. For example, we identified incidents that included terms such as sexual misconduct, assault, violence, stalking, harassment, and burglary. We identified over 250 incidents from the student conduct record system and 57 incidents from the campus police record systems that contained terms relevant to the Clery Act for review.²⁰ We then evaluated whether each incident was a reportable Clery Act crime based on the requirements and guidance in the Clery Act Handbook, and if so, we determined whether North Georgia had included the crime in its reported crime statistics.

The results of our testing of criminal incident records apply only to the incidents that we reviewed and cannot be projected to the larger population of all records.

²⁰ There was some duplication because the same incident could have multiple entries in the student conduct record system (such as separate cases for both the victim and the accused) while also being recorded in the campus police record systems.

Use of Computer-Processed Data

Computer-processed data from North Georgia's student conduct and campus police record systems were significant to the audit objective. The computer-processed data from these systems were the best and only sources of data to assess the completeness and accuracy of North Georgia's reported Clery Act crime statistics, and as discussed in this report, there were known weaknesses in the reliability of the data. Specifically, we could not obtain reasonable assurance that Clery Act crime incidents were properly recorded in the systems and could be reliably identified for reporting purposes without a 100 percent review of the underlying records.

Due to the known weaknesses in the reliability of the computer-processed crime data, we did not use the data itself to support the audit finding and conclusions. Our use of the computer-processed crime data was only to help identify crime incidents for detailed testing as described in the "Records Selection and Testing Methodology" section above. Our testing results were supported by source documentation, such as police and disciplinary records for specific incidents, and not by unreviewed computer-processed crime data. As a result, our testing results were not affected by the weaknesses in the reliability of the computer-processed data. We performed limited data reliability review procedures to gain an understanding of the record systems, assessed the reasonableness of the computer-processed data for our intended use, and screened for any obvious deficiencies in the completeness and accuracy of the data. Although there were known limitations in the reliability of the computer-processed crime data, we determined that the data were sufficiently reliable for our limited use as described above.

We also used other computer-processed data as supplementary evidence that contributed to the audit finding and conclusions but were not significant within the context of the audit objective or audit results. Examples of these supplementary data include the Clery Coordinator's access logs for the student conduct record system and North Georgia's personnel records for three departments in 2017. These data provided supplementary evidence to further support conclusions that we had already drawn rather than initial or standalone evidence to facilitate drawing new conclusions. As a result, we did not perform extensive data reliability assessment procedures on these data. However, we gained a general understanding of the data sources and other relevant information to help us confirm the reasonableness of the data for our intended use. We determined that the data was sufficiently reliable for our limited use as supplementary evidence.

We held an entrance conference and performed audit work at North Georgia's campuses in Dahlonega and Gainesville, GA, during the week of April 15, 2019. We held

an exit conference to discuss the audit results with North Georgia officials on November 20, 2019.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding and conclusions based on our audit objective.

Appendix B. North Georgia's Reported Clery Act Crime Statistics for 2015-2017

Clery Act Crime ^a	Dahlonega Campus ^b	Gainesville Campus	Oconee Campus	Cumming Campus	Blue Ridge Campus
Murder	0	0	0	0	0
Manslaughter	0	0	0	0	0
Rape	2	0	1	0	0
Fondling	4	1	1	0	0
Incest	0	0	0	0	0
Statutory Rape	0	0	0	0	0
Robbery	0	0	0	0	0
Aggravated Assault	0	0	0	0	0
Burglary	6	1	0	0	0
Motor Vehicle Theft	0	2	0	0	0
Arson	0	0	0	0	0
Domestic Violence	0	1	0	0	0
Dating Violence	2	2	0	0	0
Stalking	7	8 ^c	1	1	0
Hate Crimes	0	0	1	0	0
Unfounded Crimes	6	2	1	0	0

SOURCE: AGGREGATED FROM NORTH GEORGIA'S 2018 SUBMISSION TO THE DEPARTMENT CRIME SURVEY

^a Includes the crime totals that North Georgia reported to the Department in the 2018 crime survey and does not reflect the unreported crimes that we identified during the audit.

^b Schools report crimes in four geographic categories: on-campus, on-campus student housing, public property, and non-campus property. We aggregated the total number of crimes that North Georgia reported in each crime type for all geographic categories of each campus, excluding student housing facilities because those crimes are also included in the count of on-campus crimes.

^c One of the eight stalking incidents that North Georgia reported at the Gainesville campus was reported in error when no crime occurred.

Appendix C. Acronyms and Abbreviations

C.F.R.	Code of Federal Regulations
Clery Act	Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
Clery Act crime statistics	campus crime statistics reported in the annual Department crime survey
CSA	campus security authority
Department	U.S. Department of Education
Department crime survey	Department's annual Campus Safety and Security Survey
FSA	Federal Student Aid
Green Book	U.S. Government Accountability Office's "Standards for Internal Control in the Federal Government"
HEA	Higher Education Act of 1965, as amended
Integrated Framework	Committee of Sponsoring Organizations of the Treadway Commission's "Internal Control – Integrated Framework"
North Georgia	University of North Georgia
OIG	Office of Inspector General
standards of effective internal control	common standards of the Integrated Framework and Green Book
Title IV	Title IV of the Higher Education Act of 1965, as amended
Title IX	Title IX of the Education Amendments of 1972
VAWA	Violence Against Women Act

North Georgia Comments



July 20, 2020

Alyce Frazier
Regional Inspector General for Audit
U.S. Department of Education
Audit Services

Jeffrey Nekrasz
Director
Student Financial Assistance Advisory & Assistance team
U.S. Department of Education
Office of Inspector General
Audit Services

Via email

Re: OIG Audit - Control Number ED-OIG/A09T0006

Dear Ms. Frazier and Mr. Nekrasz:

The following is the University of North Georgia's (the University) response to the OIG Draft Audit Report (*OIG Draft Audit Report*), "University of North Georgia's Controls Over Reporting Clery Act Crime Statistics," with the above-referenced control number, dated June 3, 2020. For the reasons described in this response, the University respectfully requests that (i) OIG not issue the finding or recommendations in its *Draft Audit Report* or (ii) the finding is updated to reflect the corrective actions taken by the University.

I. OIG Draft Audit Report finding and recommendations

The OIG *Draft Audit Report* includes one finding: "North Georgia did not have effective controls to ensure that it reported complete and accurate Clery Act crime statistics."

The OIG *Draft Audit Report* also includes five recommendations. Specifically, OIG recommends that the Chief Operating Officer of the Department's Federal Student Aid (FSA) Office require North Georgia to:

Blue Ridge Cumming Dahlonega Gainesville Oconee

82 College Circle | Dahlonega, Georgia 30597 | 706.867.4587 | Fax 706.867.1689 | ung.edu

The University of North Georgia is designated as The Military College of Georgia® and as a State Leadership Institution.

1.1 Define objectives specific to reporting complete and accurate Clery Act crime statistics in accordance with the requirements of the Clery Act and the standards of effective internal control.

1.2 Identify and analyze risks related to reporting complete and accurate Clery Act crime statistics and design and implement internal controls to mitigate those risks and address the control weaknesses included in this finding.

1.3 Allocate appropriate resources and assign personnel with sufficient knowledge to design and implement the internal controls developed during the review described in Recommendation 1.2. This may include collaboration between knowledgeable personnel from multiple school departments, including personnel with legal, risk management, audit, internal control, or Federal education compliance experience.

1.4 Review school records for calendar years 2015–2017 to identify all incidents of reportable Clery Act crimes that should be included in North Georgia's Clery Act crime statistics. Amend the reported crime statistics to correct any errors in the reported Clery Act crime statistics. Corrections should include, but are not limited to, the specific reporting errors identified in this report.

OIG also recommends that FSA's Chief Operating Officer—

1.5 Consider taking action against North Georgia, including action under 34 C.F.R. Part 668 Subpart G, for the Clery Act violations identified in this report.

I. OIG's finding and recommendations are unnecessary given the corrective actions taken by the University

The University respectfully asserts that it is unnecessary for OIG to issue any finding or recommendations, including that FSA take specific actions against the University, in order to impress upon the University the importance and urgency of compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act), at Section 485(f) of the Higher Education Act of 1965, § 1092(f) and implementing regulations 34 C.F.R. §§, 668.41 and 668.46, as well as Title IV of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1070 *et seq.*

As stated previously in its December 13, 2019, response to OIG's preliminary recommendations, the University is fully committed to taking all necessary steps to ensure that it complies with its obligations under the Clery Act as well as HEA. To this end, the University has already taken a multitude of corrective actions and is in the process of implementing additional corrective actions.

By way of background, University of North Georgia was formed through the consolidation, beginning in 2012, of North Georgia College & State University (primarily 4-year, residential institution and senior military college) and Gainesville State College (primarily 2-year commuter college with a strong access mission). While the official formation of the new institution occurred in 2013, the consolidation process has been an ongoing endeavor necessitated by the blending of two institutions with different missions and requirements. Many of the policies and procedures that worked effectively at either of the two legacy institutions did not fit the operational requirements for the new University, now serving nearly 20,000 students across five campuses. Many lessons have been learned as new systems, including Maxient (student case management software) and ARMS (public safety software), and new procedures were implemented.

As part of a continuing review of processes and procedures, the University increased resources for Clery Act compliance within the Department of Public Safety from a small percentage of responsibility for a Patrol Captain to now being 60% of the responsibilities of the Support Services Captain, as well as adding a Police Officer dedicated primarily to assisting with Clery Act recordkeeping and reporting. The University Chief of Police recognized the need for closer supervision of Clery Act compliance within the department and acted accordingly.

In October 2018, the University began the process to engage an external campus safety consultant to perform a full internal program review to assess the current state of the Clery Act program. By November 2018, the Chief had secured quotes from two nationally recognized campus safety consulting companies and was working to secure funding for the review when the University received the notice of OIG's initiation of an audit of the University. At that time, the process of securing a consultant for an internal program review was put on hold to appropriately focus on the OIG audit.

In response to the recommendations included in OIG's preliminary report provided in November 2019, the University has taken the following corrective actions, with input of individuals from General Counsel, Internal Audit, Business & Finance (Public Safety, Data Governance and Management, Facilities, Auxiliary Services & Related Units), Student Affairs, and University Relations. Detailed description of these actions is available in Appendix A.

1. Assigned the existing Executive Director for Business Services with the responsibility of a full-time, institution-wide focus on ethics and compliance.¹
2. Established a full-time, designated Clery Act Coordinator position.²
3. Completed a comprehensive internal review of existing internal controls, policies, procedures, training, role-based systems access, and available systems and technology related to Clery Act compliance, including complete and accurate reporting of Clery Act statistics.³
4. Developed a formal internal control and risk assessment document for use in performing periodic review of the control environment, assessment of risks associated with complete and accurate Clery Act crime statistics, review of mitigating policies

¹ In support of Control Area 4 and Recommendation 1.3.

² In support of Control Areas 1, 2, 3, and 4 and Recommendations 1.1, 1.2 and 1.3.

³ In support of Control Areas 1 and 4 and Recommendations 1.1, 1.2 and 1.3.

- and procedures, and communication of complete and accurate information to the University community.⁴
5. Reorganized and expanded the existing Clery Act Committee to include a broader multi-disciplinary group of university leaders. See Appendix B.⁵
 6. Established a Classification Review Work Group (subset of Clery Act Committee) to regularly evaluate incidents for inclusion in the Annual Crime Survey (ACS) and Annual Safety and Fire Report (ASFR).⁶
 7. Engaged a nationally recognized campus safety consulting firm to conduct a blind comprehensive review of all records for 2015-2017 and the associated 2018 ACS and ASFR.⁷
 8. Completed a reconciliation of the 2018 ACS, ASFR and results from the external review of all records in preparation for submitting corrective information to FSA.⁸
 9. Adopted an updated reporting format for crime statistics presentation in the ASFR. See Appendix C.⁹
 10. Completed a university-wide review of all employee positions for identification of Campus Security Authorities (CSAs) and updating position descriptions to reflect CSA status following evaluation by Human Resources, Clery Act Committee, Executive Council, and University Cabinet.¹⁰
 11. Transitioned existing face-to-face and/or printed CSA training materials to an annual automated online video and job aids produced by a national organization and supplemental face-to-face instruction for identified subsets. The online human resources training system provides completion tracking and reporting capabilities.¹¹
 12. Developed and implemented a new electronic CSA reporting form and attestation of “nothing to report” form within Maxient (student conduct reporting system).¹²
 13. Implemented a communication process for notification of changes to the Clery Geography occur.¹³
 14. Implemented a process for retaining Clery Geography maps when updated versions are published.¹⁴
 15. Implemented the Clery functionality in ARMS (public safety case management system) and enhanced the use of Clery reporting functionality within Maxient.¹⁵
 16. Initiated contact with FSA, as facilitated by S. Daniel Carter, for guidance on submitting corrections for Clery Act crime statistics for calendar years 2015-2017 and any subsequent revisions to ASFRs.¹⁶
 17. Implemented the use of Smartsheets for recording, tracking and documenting the review and determination of Clery reportability, classification, and geography for

⁴ In support of Control Area 4 and Recommendations 1.1 and 1.2.

⁵ In support of Control Area 4 and Recommendations 1.2 and 1.3.

⁶ In support of Control Areas 1, 3, and 4 and Recommendations 1.2 and 1.3.

⁷ In support of Control Area 4 and Recommendation 1.4.

⁸ In support of Control Area 4 and Recommendation 1.4.

⁹ In support of Control Area 4 and Recommendation 1.4.

¹⁰ In support of Control Area 1 and Recommendations 1.2 and 1.3.

¹¹ In support of Control Area 1 and Recommendations 1.2 and 1.3.

¹² In support of Control Area 2 and Recommendations 1.2. and 1.3.

¹³ In support of Control Area 1 and Recommendation 1.3.

¹⁴ In support of Control Areas 1 and 3 and Recommendation 1.3.

¹⁵ In support of Control Area 2 and Recommendations 1.2 and 1.3.

¹⁶ In support of Control Area 4 and Recommendation 1.4.

records in ARMS, Maxient, i-Sight (newly implemented human resources case management system), and external law enforcement agencies.¹⁷

18. Engaged a nationally recognized campus safety consulting firm to conduct Clery Act classification, report writing, and documentation training for a multidisciplinary team.¹⁸

The University is committed to a continuing partnership with FSA to ensure full implementation of corrective actions already in progress or recommended as best practices.

III. The University disagrees with OIG's finding and recommendations in the *Draft Audit Report*

The University disagrees with OIG's finding that the University "did not have effective controls to ensure that it reported complete and accurate Clery Act crime statistics." The University also disagrees with OIG's recommendations that FSA require the University to take specific actions relating to its system of internal controls.

OIG's recommendations that FSA summarily require the University to undertake specific compliance actions are premature and not supported by statute or regulation. FSA cannot impose any penalties, which could include civil penalties, or the limitation, suspension, or termination of Title IV eligibility, for violations of the Clery Act until after FSA has completed a program review and issued its final determinations regarding compliance and until after the University has had the opportunity to challenge any findings through an administrative hearing. 20 USC §1092(f)(13).

The University also objects that OIG bases its finding on its conclusion that the University did not follow either of the following two "widely accepted frameworks of internal control":

1. The Committee of Sponsoring Organizations of the Treadway Commission's "Internal Control – Integrated Framework" (Integrated Framework); and
2. The U.S. Government Accountability Office's "Standards for Internal Control in the Federal Government" (Green Book).

OIG explained, "We refer to the shared standards included in both the Green Book and the Integrated Framework as the 'standards of effective internal control' in this report." Further, OIG stated that it "used the standards of effective internal control as a framework for evaluating the design, implementation, and operating effectiveness of North Georgia's internal controls that were significant to the audit objective."

However, text of the Clery Act, at 20 U.S. Code § 1092(f)(2), clearly prohibits the Department and, therefore OIG, from imposing any specific internal control standards on recipients, stating:

Nothing in this subsection shall be construed to authorize the Secretary to require

¹⁷ In support of Control Areas 1.2 and 1.3 and Recommendations 1.2 and 1.3.

¹⁸ In support of Control Area 3 and Recommendations 1.2 and 1.3.

particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security. (Emphasis added.)

OIG later appears to recognize this with its statement that: “Schools have broad discretion in designing internal controls that respond to their unique operations and circumstances.”

The University believes that it would be fundamentally unfair to impose OIG’s specific new “standards of effective internal control” on the University, especially given OIG’s recommendation that FSA “consider” taking action against the University, which could include civil penalties, or suspension or termination from Title IV, HEA programs. The Department has never provided public notice that it would rely upon the Green Book or the Integrated Framework as a means for reviewing whether institutions are in compliance with the Clery Act. In fact, the University had no notice of the Department’s apparent reliance on the Green Book standards until November 13, 2019, when it received the preliminary results document from OIG.

Moreover, the required use of the Green Book’s standards or the Integrated Framework as the Department’s new internal control standards is contrary to two Executive Orders issued in October 2019, by the President of the United States, requiring that federal agencies take steps to provide public that notice of any new rules prior to their imposition and that any new rules be developed through appropriate procedures. For example, Section 1. Policy, in the “*Executive Order on Promoting the Rules of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication*,” specifically states: “The rule of law requires transparency. Regulated parties must know in advance the rules by which the Federal Government will judge their actions.”¹⁹ Similarly, Section 1, Policy, in the “*Executive Order on Promoting the Rule of Law Through Improved Agency Guidance Documents*” states: “Americans deserve an open and fair regulatory process that imposes new obligations on the public only when consistent with applicable law and after an agency follows appropriate procedures.”²⁰

Finally, the University noted that OIG itself clearly states in the *Draft Audit Report* that its “statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General “and that the “appropriate Department of Education officials will determine what corrective actions should be taken.” The University agrees and respectfully asserts that OIG’s findings and recommendations in the *Draft Audit Report* be considered recommendations relating to “best practices,” and not serve as the basis for any compliance determinations.

¹⁹ This executive order was issued on October 9, 2019, and published in the Federal Register on October 15, 2019, and is available at <https://www.federalregister.gov/documents/2019/10/15/2019-22624/promoting-the-rule-of-law-through-transparency-and-fairness-in-civil-administrative-enforcement>.

²⁰ This executive order was issued on October 9, 2019, and published in the Federal Register on October 15, 2019, and is available at <https://www.federalregister.gov/documents/2019/10/15/2019-22623/promoting-the-rule-of-law-through-improved-agency-guidance-documents>.

IV. The University disagrees with OIG's presentation of reportable incidents by crime classification at Dahlonega and Gainesville from 2015-2017.

The University does not concur with OIG's proposed classifications for incidents identified as A-7, C-9, C-14, C-15, C-16, (as referenced in preliminary communications). The University, following the external blind review of 2015-2017 incidents and classification, continues to disagree with OIG's proposed classifications.

The Department's regulations require that institutions compile Clery Act crime statistics using specific definitions adopted from either the FBI's Uniform Crime Reporting (UCR) program or the Violence Against Women Act (VAWA). 34 CFR §668.46(c)(9). The reportability of these offenses is accordingly not determined by what a reporting party, a law enforcement dispatcher, or other institutional official initially labels the offense but whether it meets the definition of one or more reportable crimes. Institutions are free to use common terminology and or state law definitions in internal reports.

Stalking

Four of the five disputed determinations involve the offense of "stalking." Under the Department's Clery Act regulations, the offense occurs when someone is "Engaging in a course of conduct directed at a specific person that would cause a reasonable person to ... Fear for the person's safety or the safety of others; or... Suffer substantial emotional distress." 34 CFR §668.46(a). A "[r]easonable person means a reasonable person under similar circumstances and with similar identities to the victim."

Assessment of the "reasonable person" standard is a determination that is appropriately made by the officials who routinely interact with their community members. They are best suited to know how those with similar identities and circumstances typically react in their specific campus community.

For example, a campus police officer with many years of experience dealing with profoundly stressful situations is much less likely to be placed in fear or distress by a pattern of contact than an 18-year-old first-year undergraduate student. That police officer may not apply their personal standards for being in fear or distress to the report of that 18-year-old student, but they may apply discretion based on their expertise to identify if reported conduct would cause a similarly situated person to be in fear or distress even if not expressly reported.

Three of the four matters as reported do not meet the regulatory definition that the University and all Title IV institutions are required to use. The fourth was determined by a thorough law enforcement investigation to be "unfounded" and thus not reportable as stalking.

A-7: In this case, the parents of a student reported to the police department that their daughter an undergraduate student was "being harassed" by an ex-boyfriend. The narrative indicates they reported their daughter was "upset" by his non-consensual contacts with her, not that she was either in fear for her safety or suffering substantial emotional distress. When police interviewed the student, she reported that the ex-boyfriend had "never threatened her" and in a written

statement did not report either fear or “substantial emotional distress.” There is no evidence, nor did University officials have any reason to believe, that a similarly situated person would have experienced either fear or distress.

While an offense may be reported by a third party, what the third party is documented to have reported in this case does not rise to the level of the definition of stalking used by Clery. The definition of “stalking” under Georgia law, O.C.G.A. 16-5-90, is different and provides that “A person commits the offense of stalking when he or she follows, places under surveillance, or contacts another person at or about a place or places without the consent of the other person for the purpose of harassing and intimidating the other person.”

The original report made by the parents may meet the Georgia definition of “stalking” hence the police report being labeled as misdemeanor “stalking.” How a report is labeled or an offense is classified under state law is, however, not determinative of Clery reporting. It must be evaluated using the federal definition making this offense not reportable as “stalking.”

The University originally reported this as an unfounded incident of stalking while OIG determined this should have been reported as an incident of stalking on the Gainesville campus. The independent review, however, determined that both classifications were incorrect. Despite the dispatch label of “Stalking,” the independent review of what was actually reported determined that it never met the Clery definition, and that the proper classification is “Not Reportable.”

The University’s position is that this incident is “Not Reportable.”

C-9: In this case, a student initially reported that they were being discriminated against by being denied access to a (b) (6) class taught by a specific instructor. In reviewing the discrimination allegations, the student (b) (6) subsequently disclosed that “she had several uncomfortable encounters with” the other student and that she “didn’t feel comfortable with him being in her class.”

The prior incidents included making “a sexual noise” and staring at her. The Title IX investigation report indicates that the (b) (6) “is very uncomfortable at this point regarding” being in the presence of the other student. According to the investigation the (b) (6) instructor “wants to make sure” that the student “never be allowed in her (b) (6) class.”

The (b) (6) never reported being in fear and or suffering substantial emotional distress. The Title IX investigator carefully examined all the facts in this matter and reached the conclusion that the allegations never rose above non-criminal “sexual harassment.” Further, they did not determine that the circumstance would have caused a similarly situated person to suffer either fear and or distress making this incident not reportable as “stalking.”

The University originally did not report this incident, while OIG determined this should have been reported as an incident of stalking on the Dahlonega Campus. The independent review assessed this report did not meet the Clery definition of stalking, making the proper classification “Not Reportable,” which is consistent with the University’s original report.

The University's position is that this incident remains "Not Reportable."

C-14: In this case, a third party reported that the ex-boyfriend of a high school student participating in a program on campus during the summer was attempting to contact the program participant. While the participant's mother reported that the ex-boyfriend had a history of "being abusive, stalking, harassing to" the participant, none of this conduct was alleged to have occurred in Clery Geography. The police report indicates that the participant never had contact either directly or indirectly with her ex-boyfriend during the program or anywhere in Clery Geography, as she learned of the attempted contact only through the police investigation.

The police interview with the program participant indicated that they did not experience either fear or distress. There is no evidence, nor did University officials have any reason to believe, that a similarly situated person would have experienced either fear or distress.

The University originally did not report this incident, while OIG determined this should have been reported as an incident of stalking on the Dahlonega Campus. The independent review assessed this report as not meeting the definition of any Clery reportable offense, making the proper classification "Not Reportable."

The University's position is that this incident is "Not Reportable."

C-16: A University student reported to campus police that a distinctive "man in a red pickup truck" would travel in front of the roadway, which is public property for the Dahlonega campus, at the (b) (6) where she was (b) (6) and focus his attention on her. She also reported seeing the same vehicle on campus. University police conducted an extensive investigation that included interviews with witnesses and the suspect. Investigators determined that to the extent there may have been a course of conduct, it was not directed at a particular person and closed the case "as unfounded."

The University originally did not report this incident in any form, while OIG determined this should have been reported as an incident of stalking on Dahlonega Public Property. The independent review, however, determined that both classifications were incorrect. The report was determined to be "unfounded" through law enforcement investigation, and the independent review found that it should have been disclosed as such.

According to Clery Act regulations, 34 CFR §668.46(c)(2)(iii), "An institution may withhold, or subsequently remove, a reported crime from its crime statistics in the rare situation where sworn or commissioned law enforcement personnel have fully investigated the reported crime and, based on the results of this full investigation and evidence, have made a formal determination that the crime report is false or baseless and therefore 'unfounded.'" That standard is met here.

The invalidation by a third-party agency of a law enforcement agency's determination that a report was "unfounded" should be reserved only for exceptional circumstances with substantial evidence that such action was taken without a reasonable basis. No such evidence exists in the University's records, and OIG offered no additional evidence in support of their determination.

The University's position is that this is reportable as an "Unfounded" crime.

Dating Violence

C-15: In this case, University Police were dispatched in response to a third-party telephone report of a "domestic dispute." When officers arrived at the scene, the alleged participants were not present and there were no witnesses present. The report did not include any information regarding a potential "social relationship of a romantic or intimate nature" between the unknown individuals allegedly involved in the altercation.

"Dating violence" is defined by Clery Act regulations 34 CFR §668.46(a) as, "Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim." Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. In this case, an individual who was not present and heard of the incident from a witness, reported the witness told him they saw a female hit a male in a heated altercation. Although the alleged participants in the altercation were of opposite genders, there is no evidence in the report that there was a romantic and or intimate relationship between them.

The University originally did not report this incident, while OIG determined this should have been reported as an incident of dating violence on the Dahlonega Campus. The independent review concurred with the University that there was no evidence of any Clery Act reportable offense, making it not reportable.

The University's position is that this incident is "Not Reportable."

Conclusion

In conclusion, the University respectfully requests OIG's careful consideration of the above requests and information in preparing the final report.

Sincerely,



Bonita C. Jacobs, Ph.D.
President
University of North Georgia